

# Notice of Allowability

Application No.

09/747,776

Examiner

Jeffrey D. Carlson

Applicant(s)

KEPECS, JONATHAN

Art Unit

3622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to paper(s) filed 8/23/04.
2. ☒ The allowed claim(s) is/are 24-36, 42-44, 67-78 and 90-96.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date See Continuation Sheet
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_.
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

/Jeffrey D. Carlson/  
Primary Examiner, Art Unit 3622

Continuation of Attachment(s) 3. Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date: 3/1/05, 4/15/05, 9/8/04.

***Allowable Subject Matter***

1. Claims 24-36, 42-44, 67-78, and 90-96 are allowed.
2. Although the claims in group VIII are indeed different in scope from the claims in group III (system vs. methods/coded mediums), the concepts are similar enough so as to not provide a serious burden on search or examination. Therefore both groups have been examined.

***Reasons for Allowance***

3. Claims 24-36, 42-44, 67-78, and 90-96 are considered allowable over the cited art because the claimed invention includes the features of: including a repeated offer based on a user's purchase history and if the first consumer purchased the product repeatedly offered by the first offer "N" times, generating a second offer offering a product from the plurality of products for purchase by the first consumer for a second time period, wherein sale of the product offered by the second offer provides a second profit margin for the seller which is greater than the first profit margin and if the first consumer did not purchase the product offered by the first offer repeated at least "N" times and the first offer has been offered to the first consumer "M" times, generating a third offer offering a product from the plurality of products for purchase by the first consumer for a third time period, wherein sale of the product offered by the third offer provides a third profit margin for the seller which is less than the first profit margin. These features are not taught or suggested given the closest prior art of Scroggie et al

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(US5970469) and Bigus et al (US6401080). Scroggie et al teaches electronic offers according to a user's purchase history. Bigus et al describes that a computer-based system may negotiate a price for a particular product and will iterate through a series of lower offers [col 2 lines 43-56, for example], but there is no teaching in Bigus et al of offers based on purchase history nor is there a teaching for repeating an offer having a particularly defined price or profit margin until a purchase is made. Bigus et al seeks to reduce the price with each offer instance. Bigus et al also fails to teach a third offer having a higher profit margin that is responsive to an actual purchase of a previous offer. This features are found in each of the independent claims 24, 42, and 67.

### ***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey D. Carlson whose telephone number is 571-272-6716. The examiner can normally be reached on Monday-Fridays; off alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571)272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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